

WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER

OPEN MEETING ITEM



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DIRECTOR

SECURITIES DIVISION
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ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Chairman William A. Mundell
Commissioner Jim Irvin
Commissioner Marc Spitzer

FROM: *for* Mark Sendrow *R*
Director of Securities

DATE: March 7, 2002

RE: Proposed consent re: **William R. Evans, Chartered, (Michael Lynn Bill, et al.**
S-03460A-01-0000)

CC: Brian C. McNeil, Executive Secretary

Arizona Corporation Commission
DOCKETED
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DOCKETED BY *[Signature]*

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The Securities Division recommends that the Commission issue an order against William R. Evans, Chartered ("Evans") for violations of the registration provisions of the Securities Act. Evans was involved in the sale of viatical settlement contracts to Arizona investors during 1998 and 1999. This consent is one of four respondents' consents presented on this case. Beneficial Assistance, a Maryland corporation, created the investment program. Beneficial then hired respondent Viatical Center, Inc. (IL) to locate sales agents and send out correspondence to investors. Respondent William R. Evans Chartered (MD) facilitated the program by taking ownership of the life insurance policies and administering accounts. Respondent, Michael Bill (AZ), made sales to Arizona investors on behalf of the above companies.

Evans was hired by Beneficial to act as an escrow for investor funds as they were pooled in order to purchase viatical settlement contracts. Evans maintained the account into which investor funds were placed. Evans took ownership of the policies whose benefits were assigned to investors. Evans was responsible for continuing premium payments, monitoring the insureds, notifying investors of the maturity of the policies, and making disbursements to investors. Evans thus functioned as more than an escrow agent by facilitating the ongoing investment program and owning the underlying asset. However, Evans did not create the investment program or offer it directly to any Arizona investors.

Due to Evans participation in the viatical investment program, Evans has agreed to consent to a cease and desist order for violations of the registration provisions of the Securities

Act. Evans has agreed to pay a \$5,000 fine for its role in the program. The Division believes that the consent is fair given the level of participation by Evans in the program.

Originator: Sharon Fox

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Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

DOCKET NO. S-03460A-01-0000

DECISION NO.

**ORDER TO CEASE AND DESIST, ORDER
FOR ADMINISTRATIVE PENALTIES AND
CONSENT TO SAME
BY: WILLIAM R. EVANS CHARTERED**

BY: WILLIAM R. EVANS CHARTERED

Respondents.

RESPONDENT WILLIAM R. EVANS CHARTERED elects to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order To Cease And Desist, Order for Administrative Penalties and Consent to Same ("Order"). WILLIAM R. EVANS CHARTERED admits the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to the entry of this Order by the Commission for purposes of this proceeding only.

I.

FINDINGS OF FACT

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution, and the Securities Act.

2. BENEFICIAL ASSISTANCE a/k/a Beneficial Assurance, Ltd. t/a Imtek Funding Corporation ("BENEFICIAL"), located at 8003 Corporate Drive, Ste. C, Baltimore, MD 21236, was at all relevant times in the business of issuing viatical settlement contracts to investors.

3. WILLIAM R. EVANS CHARTERED ("EVANS"), located at 8003 Corporate Drive, Ste. C, Baltimore, MD 21236 is a Maryland corporation and a participant in various viatical settlement programs as a policy owner, attorney-in-fact, trustee, and optional irrevocable beneficiary on behalf of investors.

4. From at least June 1998 through at least April 1999, BENEFICIAL offered and sold securities in the form of viatical settlement contracts and investment contracts to at least three Arizona investors. A viatical settlement contract involves the purchase of an interest in the proceeds from a life insurance policy of a terminally ill individual. Various viatical companies purchase the policies at a discount and re-sell the benefits to investors at less than the full face value. When the policy matures, that is when the insured dies, the investor receives the full face value as return of investment plus profit.

5. Investors were required to fill out a "Purchase Authorization Agreement" once they decided to invest. The agreement was between the investor and BENEFICIAL as "agent." BENEFICIAL agreed to act on the investor's behalf to identify and qualify a policy for purchase, and to receive 15-20% of the purchase funds for administrative costs.

6. Investors were instructed to write their checks out to EVANS to be placed in a trust account maintained by EVANS. EVANS would become the owner of the purchased policies and attorney-in-fact for the investor. EVANS would be responsible for continuing premium payments, tracing patient progress, monitoring medical history, notifying the investor of policy maturity,

1 filing death claims and making other disbursements from the trust account, including fees to
2 various participants.

3 7. The Purchase Authorization Agreement provided no other information about the use of
4 proceeds, including but not limited to costs to purchase the policy, fees to brokers, fees to EVANS,
5 and commissions to salesmen.

6 8. At least three Arizona residents invested a total of One Hundred Eighty Seven
7 Thousand, Four Hundred Eighty One Dollars (\$187,481.00) in viatical settlement contracts.

8 II.

9 CONCLUSIONS OF LAW

10 1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona
11 Constitution and the Securities Act.

12 2. EVANS facilitated the offer and sale of securities within Arizona, within the meaning
13 of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

14 3. RESPONDENT violated A.R.S. § 44-1841 by facilitating the offer and sale of
15 unregistered securities and non-exempt securities within Arizona.

16 4. RESPONDENT'S conduct is grounds for a cease and desist order pursuant to A.R.S. §
17 44-2032.

18 5. RESPONDENT'S conduct is grounds for administrative penalties under A.R.S.
19 § 44-2036.

20 III.

21 ORDER

22 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and
23 RESPONDENT'S consent to the entry of this Order, the Commission finds that the following
24 relief is appropriate, in the public interest, and necessary for the protection of investors:

25 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that EVANS, and any of EVANS' agents,
26 employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that EVANS shall pay an administrative penalty in the amount of Five Thousand Dollars (\$5000.00.) Payment shall be made in full upon entry of this Order, by cashier's check or money order made payable to the "State of Arizona."

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2002.

BRIAN C. McNEIL
Executive Secretary

DISSENT

This document is available in alternative formats by contacting Shelly M. Hood, Exec. Asst. to Exec. Secretary, voice phone number 602-542-3931, E-mail shood@cc.state.az.us.

(sf)
n/enforce/cases/Arizona viaticals/pleadings/consent evans

CONSENT TO ENTRY OF ORDER

1
2 1. RESPONDENT, WILLIAM R. EVANS CHARTERED ("EVANS"), admits the
3 jurisdiction of the Commission over the subject matter of this proceeding. EVANS acknowledges
4 that he has been fully advised of his right to a hearing to present evidence and call witnesses and
5 EVANS knowingly and voluntarily waives any and all rights to a hearing before the Commission
6 and all other rights otherwise available under Article 11 of the Securities Act and Title 14 of the
7 Arizona Administrative Code. EVANS acknowledges that this Order to Cease and Desist, Order
8 for Administrative Penalties and Consent to Same ("Order") constitutes a valid final order of the
9 Commission.

10 2. EVANS knowingly and voluntarily waives any right under Article 12 of the Securities
11 Act to judicial review by any court by way of suit, appeal, or extraordinary relief resulting from the
12 entry of this Order.

13 3. EVANS acknowledges and agrees that this Order is entered into freely and voluntarily
14 and that no promise was made or coercion used to induce such entry.

15 4. EVANS acknowledges that it has been represented by counsel in this matter, it has
16 reviewed this Order with its attorney and understands all terms it contains.

17 5. EVANS neither admits nor denies the Findings of Fact and Conclusions of Law
18 contained in this Order and consents to entry of this Order for purposes of this proceeding only.

19 6. By consenting to the entry of this Order, EVANS agrees not to take any action or to
20 make, or permit to be made, any public statement denying, directly or indirectly, any Finding of
21 Fact or Conclusion of Law in this Order or creating the impression that this Order is without
22 factual basis. EVANS will undertake steps necessary to assure that all of its agents and employees
23 understand and comply with this agreement.

24 7. While this Order settles this administrative matter between EVANS and the
25 Commission, EVANS understands that this Order does not preclude the Commission from
26

1 instituting other administrative proceedings based on violations that are not addressed by this
2 Order.

3 8. EVANS understands that this Order does not preclude the Commission from referring
4 this matter to any governmental agency for administrative, civil, or criminal proceedings that may
5 be related to the matters addressed by this Order.

6 9. EVANS understands that this Order does not preclude any other agency or officer of
7 the state of Arizona or its subdivisions from instituting administrative, civil or criminal
8 proceedings that may be related to matters addressed by this Order.

9 10. EVANS agrees that it will continue to cooperate with the Securities Division
10 including, but not limited to, providing complete and accurate testimony at any hearing in this
11 matter and cooperating with the state of Arizona in any related investigation or any other matters
12 arising from the activities described in this Order.

13 11. EVANS consents to the entry of this Order and agrees to be fully bound by its terms
14 and conditions. If EVANS breaches any provision of this Order, the Commission may vacate this
15 Order and restore this case to its active docket.

16 12. William R. Evans represents that he is President of EVANS and has been authorized by
17 EVANS to enter into this Order for and on behalf of it. EVANS represents that he is authorized by
18 law to enter into this Order for and on behalf of EVANS.

19 WILLIAM R. EVANS CHARTERED

20 By: William R. Evans
21 William R. Evans, President

22
23 SUBSCRIBED AND SWORN TO BEFORE me this 17th day of January, 2002
24

25 Stacey R. Damico-Leon
26 NOTARY PUBLIC

My Commission Expires:

STACEY RAE DAMICO-LEON
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires July 30, 2002